

**TESTIMONY IN FAVOR OF HB 72
BEFORE THE HOUSE BUSINESS AND LABOR COMMITTEE
JERRY KECK, ADMINISTRATOR
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DEPARTMENT OF LABOR AND INDUSTRY
JANUARY 11, 2011**

Mr. Chairman and members of the committee, my name is Jerry Keck. I am the administrator of the Employment Relations Division of the Department of Labor and Industry. First, I want to thank Rep. Hollenbaugh for agreeing to carry this bill.

HB 72 is the department's proposal to addressing Montana's high workers' compensation rates. Montana is now #1 in the Oregon premium ranking study on workers' compensation premium rates. Montana is also #1 in the OSHA report of incidence rate for recordable workplace injuries. There is a direct connection between our injury rate and our workers' compensation premium rate.

In the study of the workers' compensation system the Labor-Management Advisory Council on Workers' Compensation identified our injury rate (incidence rate) as the number 1 cost driver. The National Council of Compensation Insurers (NCCI) predicted that if we reduced our injury rate to the national average, it would reduce our costs in workers' compensation by 35%, or \$145 Million. In response to this information, the LMAC recommended the creation of the WorkSafeMT Foundation, a public-private partnership to address workplace safety, improving the culture, education and training for employers and employees. This is a long term effort that will gradually show reductions in our workers' compensation premiums.

HB 72 is a specific proposal to help us begin impacting the incidence rates or injury rates by setting some safety standards or criteria for contractors who wish to work on state construction projects. It requires state agencies to include a consideration of workplace safety histories in awarding state construction contracts. This is a best practice in the private sector. HB 72 requires state agencies to follow these industry best practices.

If the bidder has a workplace safety history of 50% worse than average as shown by BOTH the bidder's incidence rate AND the bidder's experience rating, the state is prohibited from awarding a contract to that bidder

If the bidder has a workplace safety history that is between average and 50% worse than average on either the bidder's incidence rate or the bidder's experience rating, the bidder is required to have a safety consultation with the Department's Safety Bureau in order to be in compliance with the state contract

If the bidder's work place safety history is better than average as shown by both the bidder's incidence rate and the bidders' experience rating, they are fully qualified to bid.

In order to minimize the impact on small contractors the department proposed that a bidder could use either their experience rating or their loss ratio in order to establish that they qualified to bid.

For individuals that operate as certified independent contractors, they would be required to have the onsite safety consultation.

The bill only applies to construction contracts for \$25,000 or greater.

Mr. Chairman, and members of the Committee, since the text of HB 72 was posted, the Department has received many questions and comments. I believe most of these comments are constructive suggestions to make the concept in this bill workable. We are certainly willing to work with the various stakeholders who would like to see changes in this bill to refine it into a workable process that the majority of stakeholders can support.

Mr. Chairman, and members of the Committee, the department is requesting your support for HB 72. I will try to answer any questions that you may have. Thank you.